

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
MONROE DIVISION

RAVEN ROWLAND, NATURAL TUTRIX OF THE MINOR CHILD, BENJAMIN DAVIS, JR.	*	CIVIL ACTION
	*	
	*	NO.
	*	
VERSUS	*	JUDGE
	*	
AMERICAN MEDICAL RESPONSE, INC.	*	MAGISTRATE
	*	
	*	JURY DEMAND

\* \* \* \* \*

COMPLAINT FOR REMOVAL  
(JURY DEMAND)

NOW INTO COURT, through undersigned counsel, comes defendant, American Medical Response, Inc. ("AMR"), who pursuant to 28 U.S.C. §§ 1332 and 1441 (B) seeks removal of this matter, with full reservation of any and all defenses, objections, and exceptions, and respectfully avers as follows:

I.

This case arises from plaintiff's original Petition for Damages (the "Petition") entitled "*Raven Rowland, Natural Tutrix of the Minor Child, Benjamin Davis, Jr. versus American Medical Response, Inc.*," filed in the 4<sup>th</sup> Judicial District Court for Parish of Ouachita, State of Louisiana, on June 17, 2013, a copy of which is attached hereto as

Exhibit 1 and made part of this Complaint. In the Petition, Raven Rowland as the natural tutrix of her minor son, Benjamin Davis, Jr. ("Plaintiff"), sets forth claims for damages related to the death of the minor's father, Benjamin Davis, Sr. (the "Decedent"), on June 18, 2012 in Monroe, Louisiana. In the Petition it is alleged that the death of Benjamin Davis, Sr. was caused by the alleged negligence of AMR, which responded to a call for an ambulance placed from the Decedent's residence and rendered medical assistance to Benjamin Davis, Sr. at his residence. (Petition, ¶¶s II, IV, V, VI, VIII, IX, X, and XI).

II.

Defendant, AMR, was served with the Petition on June 21, 2013.

III.

Defendant files this Complaint for Removal, duly verified, in this Court within thirty (30) days after service of the Plaintiff's suit filed in state court.

IV.

Plaintiff's petition alleges that plaintiff suffered damages to include the wrongful death of Benjamin Davis, Sr., the lost opportunity of survival suffered by Benjamin Davis Sr., pain and suffering of the Decedent, emotional distress and loss of life suffered by the Decedent, medical expenses due to additional care needed by the Decedent prior to his death, and loss of consortium and support claim of the Decedent's minor child, Benjamin Davis, Jr., as well as the minor's claim for severe emotional distress, and loss of quality of life. (Petition at ¶ XI).

V.

It is facially apparent that the Plaintiff's wrongful death claim and claims brought

on behalf of the Decedent satisfy the amount in controversy requirement. The Plaintiff's allegations alone, taken on their face, establish that the amount in controversy exceeds the \$75,000 jurisdictional requirement for a diversity case. See *Menendez v. Wal-Mart Stores, Inc.*, 364 Fed. Appx. 62, 67 (5<sup>th</sup> Cir. 2010).

VI.

General damages awarded for wrongful death alone are in excess of \$75,000. See *Street v. Louisiana Pacific Corp.* 36,352 (La. App. 2 Cir. 9/18/02); 829 So.2d 450 (decedent's four minor children were each awarded \$100,000 in wrongful death damages); *Wilkerson v. Kansas City Southern Railway*, 33,922 (La. App. 2 Cir. 11/1/00); 772 So.2d 268 (decedent's three minor children were each awarded \$190,000 in wrongful death damages); *Baughman v. State Dept. of Transp. and Development*, 28,369 (La. App. 2 Cir. 5/8/96); 674 So.2d 1063 (decedent's minor child was awarded \$300,000 in wrongful death damages).

VII.

This matter states a claim pursuant to diversity of which the district courts of the United States have original jurisdiction as specified by 28 U.S.C. §§ 1332 and 1441(B).

VIII.

Defendant, American Medical Response, Inc., is a foreign corporation, domiciled in the State of Delaware and has its principle place of business in the State of Colorado.

IX.

The Plaintiff, as set forth in the Petition, is a resident and domiciliary of Monroe, Ouachita Parish, State of Louisiana.

X.

Defendant AMR contends that complete diversity exists in this matter.

XI.

As there is complete diversity in citizenship between plaintiff and defendant, and because the amount in controversy exceeds \$75,000, this court has jurisdiction over this civil action pursuant to 28 U.S.C. § 1332. Accordingly, this action may be removed to this Honorable Court pursuant to 28 U.S.C. § 1441.

XII.

Defendant has good and sufficient defenses to the plaintiff's claims for relief and disputes all rights to the relief prayed for in the Petition for Damages.

WHEREFORE, defendant, American Medical Response, Inc., prays that this matter be removed from the 4<sup>th</sup> Judicial District Court for the Parish of Ouachita, State of Louisiana, to the United States District Court for the Western District of Louisiana, Monroe Division, and for trial by jury.

Respectfully submitted,

*Is/ Gina Talluto Cursain*

PAUL J. POLITZ (#19741)  
GINA TALLUTO CURSAIN (#23326)  
Taylor, Wellons, Politz & Duhe, APLC  
1515 Poydras Street, Suite 1900  
New Orleans, LA 70112  
Email: [ppolitz@twpdlaw.com](mailto:ppolitz@twpdlaw.com)  
E-mail: [gcursain@twpdlaw.com](mailto:gcursain@twpdlaw.com)  
Telephone: (504) 525-9888  
Facsimile: (504) 525-9899

COUNSEL FOR AMERICAN MEDICAL  
RESPONSE, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that the above and foregoing has been electronically filed with the Clerk of Court of the United States District Court for the Western District of Louisiana by using the CM/ECF System, which will send a notice of electronic filing to all counsel of record in this matter via the electronic filing system.

I further certify that I mailed the forgoing document and notice of electronic filing by first-class mail to all counsel of record who are not participants in the CM/ECF system on this 19<sup>th</sup> day of July, 2013.

*lsl Gina Tallato Carsain*

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Taylor, Wellons, Politz, & Duhe, APLC